

The 7th February, 1995

No. 14/13/87-6Lab./163.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala in respect of the dispute between the workman and the management of M/s T.C. Haryana Chandigarh *versus* Shri Sitara Singh.

IN THE COURT OF SHRI S.R. BANSAL (ADDL. DISTRICT & SESSIONS JUDGE),  
PRESIDING OFFICER, LABOUR COURT, AMBALA.

Reference No. 195 of 1989.

SHRI SITARA SINGH R/O VILLAGE NAGAWAN P. O. BADAGOAN, TEHSIL NARAINGARH  
DISTRICT AMBALA. .. *Workman.*

and

(I) THE STATE TRANSPORT COMMISSIONER, HARYANA CHANDIGARH.

(II) GENERAL MANAGER, HARYANA ROADWAYS, YAMUNA NAGAR.

.. *Management.*

*Present :—*

WR. Shri C. L. Sharma.

MR. Shri Mohan Lal, ADA.

#### AWARD

In exercise of the powers conferred by clause (C) of sub section 1 of section 10 of the Industrial Disputes Act, 1947 (for short called as the 'Act'), the Governor of Haryana referred the following dispute between the workman Sitara Singh and the management The State Transport Commissioner, Haryana, Chandigarh (II) The General Manager, Haryana Roadways, Yamuna Nagar to this court for adjudication,—vide Haryana Government notification No. 20407 dated 11th May, 1989:—

Whether the termination of services of Shri Sitara Singh is valid & justified? If not so, to what relief is he entitled?

The workman raised an industrial dispute by serving a demand notice dated 10th February, 1989 under section 2(A) of the Industrial Disputes Act, 1947. The conciliation proceedings took out by the Labour Officer-cum-Conciliation Officer. The same having failed, the appropriate Government made the above mentioned reference to this court for adjudication.

On receipt of the reference notice were issued to the workman as well as to the management. The workman appeared and submitted his claim statement. According to the allegations workman joined the services of the management in the year, 1974. On 27th January, 1985 when he was travelling in Bus No. 7971 on route from Delhi to Naraingarh as a Conductor one Shri Sahib Singh, Inspector inspected the bus and allegedly found that the workman had issued two tickets from Delhi to Panipat and again issued the same tickets to two passengers for Rs. 12.00 and thus embezzled the said amount. On the basis of the report submitted by the Inspector the workman was charge-sheeted. He submitted his reply to the charge-sheet and enquiry was held. It is alleged that the charge against the workman were proved which apparently was an eye wash to terminate the services of the workman dated 4th December, 1987. The workman preferred a departmental appeal to the State Transport Commissioner which was rejected on 23rd May, 1988. Thereafter he submitted present demand notice in which he assailed the enquiry held against him to be illegal. It was alleged that he was not allowed proper opportunity of hearing. He demanded his reinstatement with continuity of service and back wages.

Management however in the written statement filed pleaded that a valid proper enquiry was conducted against the workman and charges stood proved against him. After the enquiry a show cause notice was given to the workman to which he did not reply. Thereafter after affording of opportunity of personal hearing the impugned order of termination was passed which is perfectly legal and valid and therefore, the workman is not entitled to any relief.

Workman submitted his replication controverting the allegations of the management in the written statement filed and reiterated those made in the claim statement.

On the pleadings of the parties, the following issues were framed for decision:—

Whether the impugned termination of services of the workman is invalid? OPW

## 2. Relief.

Workman appeared as WW-1 and supported all the allegation made in the claim statement. In rebuttal the management produced MW-1 Shri Kimti Lal, Works Manager who proved having conducted the enquiry. He stated that,—vide Ex-M-1 he was appointed as Enquiry Officer and,—vide Ex-M-2 he gave notice of enquiry to the workman. He further stated that he conducted the enquiry in the presence of the workman and recorded the statement of Shri Sahib Singh, Ex-M-6 and thereafter gave full opportunity to the workman to produce its evidence in defence and ultimately submitted his report Ex-M-7. MW-2 Shri Raghbir Ram, Clerk proved that,—vide Ex-MW-8 the workman was found guilty of charges and accordingly the show cause notice Ex-M-9 was issued to the workman to which he workman did not file any reply and rather on 12th August, 1987 wanted to inspect the record for filing of the reply to show cause notice,—vide Ex-M-10 a opportunity of personal hearing was given to the workman and,—vide Ex-M-11 his services were terminated by passing the impugned order and,—vide Ex-M-12 the appeal of the workman was dismissed by the State Transport Commissioner. MW-3 Shri Kharati Lal, Assistant stated that as many as 56 warning given to the workman,—vide Ex-MW-3/1. He also stated that,—vide Ex-MW-3/2 enquiry being held against the workman in ten cases of the workman. The workman produced Ex-W-1, Ex-W-2 and Ex-W-3 the order passed in cases of S/Shri Sarwan Kumar, Conductor and Ram Saran Dass etc. in which also the question of embazzlement was involved and the management took a lenient view and ordered the reinstatement of the workman in each case. Thereafter the management closed its case.

I have heard the Learned representatives of the parties.

My issue wise findings are as under:—

## Issue No. 1.

The only short question to be seen in the present case is whether the statement of Inspector Sahib Singh regarding the alleged embazzlement committed by the workman is sufficient to return the verdict of the guilty against the workman. It is admitted position on the record that no note what soever was given by the Inspector concerned on the Way Bill of the workman. He also did not record the statement of any of the passengers nor checked the cash in hand of the workman. The workman raised this objection even at the time of checking carried out by the Inspector Sahib Singh and also during the course of enquiry as would indeed become clear from Ex-M-6 & Ex-M-7 but no explanation is forth coming for this on the part of alleged concerned Inspector. His apprehension that giving of note on the Way Bill would have created a dispute does not seem to be plausible of convincing. No such attempt was made by him so as to why the Inspector concerned did not record the statement of the passengers. Further more there is no explanation on the file as to why the cash of conductor was not checked. This stand was admitted by MW-1 Shri Kimti Lal, Enquiry Officer during the cross-examination. This stand is also admitted by MW-2 Shri Raghbir Lal that the workman was not supplied the copy of the report submitted by the Inspector nor copies of the documents relied upon by the department were supplied to him. The workman has categorically alleged bias on the part of the Inspector. All these facts lead to one irresistible conclusion that the checking of the bus carried out by Inspector Sahib Singh was done in a most perfunctory manner and the report submitted by him could not have formed the basis of the charge sheet against the workman nor workman can be held guilty of charge on the basis of such report. The management has tried to lead evidence that the workman has been given warnings in 56 cases. They have also tried to prove that enquiry in 10 other similar cases is being conducted against the workman. Be that as it may, the fact remains that the conduct of the Government official is not relevant in the Civil proceedings and this conduct of the workman cannot be made on the basis for recurrence of guilt him in the present case. Having regards of the facts and circumstances the workman is entitled to reinstatement with continuity of service. However keeping in view the other circumstances of the case I am of the opinion that he should not be entitled to back wages. The finding on this issue is, therefore, returned partly in favour of the workman and partly against him.

## Relief.

In the end, it is held that the workman is entitled to reinstatement with continuity of service but without back wages.

S. R. BANSAL,

The 30th November, 1994.

Addl. Distt. & Sessions Judge,  
Presiding Officer, Labour Court,  
Ambala.

Endorsement No. 1886 dated, 8th December, 1994.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

S. R. BANSAL,

Addl. Distt. & Session Judge,  
Presiding Officer, Labour Court,  
Ambala.